

State of California
Regional Water Quality Control Board
San Diego Region

Executive Officer Summary Report
December 10, 2003

ITEM: 5

SUBJECT: Waste Discharge Requirements: County of San Diego, San Marcos Landfill, San Diego (tentative Order No. R9-2003-0003). (Carol Tamaki)

PURPOSE: Tentative Order No. R9-2003-0003 would, if adopted, supercede Order Nos. 92-02 and addenda thereto, supercede Order 95-112, delete the San Marcos Landfill from General Order No. 93-86, and supercede Monitoring and Reporting Program No. 92-02.

PUBLIC NOTICE: A Public Notice of this agenda item was published in: (1) San Diego Union-Tribune on October 26, 2003; (2) North County Times on October 26, 2003; and (3) in the Notifications Section of the Regional Board agenda for November 12, 2003 (Attachment 10).

These actions satisfy the 45-day public notification of this action, as required by CCR Title 27 Section 21730 (b).

DISCUSSION: A closure plan was submitted to the Regional Board in 1995. The San Marcos Landfill stopped receiving municipal solid waste in March 1997. Due to litigation over the re-vegetation plan for the final landfill cover, the County of San Diego did not proceed with closure of the landfill. In 2001, a settlement was reached between the parties to the litigation.

On January 11, 2002, the County of San Diego submitted an updated JTD, including an amended final closure plan. After two more revisions, the Regional Board deemed the JTD complete on July 26, 2002. The Regional Board originally issued tentative Order R9-2003-0003 for public review and comment on January 3, 2003. The tentative Order was removed from the March 12, 2003 meeting agenda after the Regional Board received numerous written comments from the County

of San Diego on technical aspects of the tentative Order (Attachment 9). The Regional Board staff worked with the County of San Diego and the State Water Resources Control Board Land Disposal Program staff to resolve the original written comments received in February 2003.

The San Marcos Landfill is currently regulated under Order Nos. 92-02 (as amended by Order No. 93-86), Monitoring and Reporting Program No. 92-02, and Order 95-112 (for Corrective Action Monitoring). The findings, prohibitions, discharge specifications, provisions, reporting requirements and notifications of the existing Orders (referenced above) need to be updated and revised. The tentative Order includes waste discharge requirements for closure, post-closure maintenance and monitoring. The information to support the requisite regulatory findings may be found in the attached Staff Report (Attachment 8).

SIGNIFICANT CHANGES:

Tentative Order No. R9-2003-0003 (Attachment 2) would supercede requirements of Order Nos. 92-02, 93-86, and 95-112. The tentative Order also includes specifications for erosion and drainage controls, landfill cover construction, and updated Federal and /State monitoring requirements for municipal solid waste (MSW) landfills. The monitoring and reporting program (Attachment 3) contains significant revisions incorporates corrective action requirements from both State (statutory/regulatory citations in Attachments 4, 5 and 6) and Federal requirements from Code of Federal Regulations (CFR) Title 40, Part 258 (citations in Attachment 7).

LEGAL CONCERNS:

The existing financial assurances for closure and post-closure maintenance do not provide the Regional Board with direct access to funds (Attachment 11), in the event the County of San Diego is unable to complete closure or post-closure maintenance at the San Marcos Landfill. In addition, the County has not provided the Regional Board with evidence of financial assurances to cover funding of Corrective Action for reasonably foreseeable releases from the San Marcos Landfill. The tentative Order requires the County to obtain and maintain acceptable financial assurances that provide the Regional Board with direct access to funding in the

event that the County is unable or unwilling to complete it closure, post-closure maintenance or corrective actions at the San Marcos Landfill. The required financial assurances are to be provided to the Regional Board within one year of the date the tentative Order is adopted by the Regional Board. Additional rationale supporting this requirement may be found in the Staff Report (Attachment 8).

COMPLIANCE HISTORY:

On May 13, 1998, the Regional Board adopted Cease and Desist Order (CDO) No. 98-39 for violations of Order No. 92-02 during the El Niño rainy season in 1998. CDO 98-39 requires the County of San Diego to establish regular monitoring and reporting program on the status of the interim landfills cover, and maintain a minimum 24-inches of specified cover materials on the San Marcos Landfill.

On May 10, 2000, the Regional Board adopted Order No. 2000-82, "*Administrative Assessment of Civil Liability Against the County of San Diego, San Marcos Landfill*" in a total amount of \$305,050 for violations of CDO 98-39. The State Water Board reviewed the Order in response to a petition by the County and remanded consideration of the amount of civil liability back to the Regional Board for further consideration (Water Quality Order 2001-001). On March 13, 2002, the Regional Board conducted another hearing on the matter and issued Order 2002-0017 "*Administrative Assessment of Civil Liability Against the County of San Diego, San Marcos Landfill*" in a total amount of \$136,500. The County again petitioned the State Water Board for review of Order 2002-0017. On November 19, 2002, the State Water Board issued Water Quality Order No. 2002-0020 requiring the County of San Diego to pay an administrative civil liability in a total amount of \$84,850. On December 19, 2002, the County of San Diego provided the Regional Board with a check in the amount of \$84,850

On December 12, 2001, the Regional Board adopted Addendum No. 1 to CDO No. 98-39 establishing a deadline for the County to submit a ROWD for final closure of the San Marcos Landfill. That addendum also incorporates maintenance requirements contained in general waste discharge requirements for inactive

landfills. Implementation of these maintenance requirements will ensure proper erosion and drainage controls for the intermediate cover until construction of the final landfill cover is completed. The Regional Board staff anticipates scheduling an item for rescission of the CDO No. 98-39 (and addenda thereto) later this year.

SUPPORTING DOCUMENTS:

1. Site map
2. Tentative Order No. R9-2003-0003
3. Tentative Monitoring and Reporting Program R9-2003-0003
4. State Regulatory References- CCR Title 27
5. SWRCB Resolution 93-62 References
6. Statutory References
7. Federal Regulatory References- CFR Title 40
8. Staff Report
9. Executive Officer Summary Report: March 12, 2003 Meeting
10. Public Notification
11. Existing Financial Assurances from the County of San Diego for Closure and Post-Closure Maintenance

RECOMMENDATIONS:

Adoption of tentative Order No. R9-2003-0003 is recommended.